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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF WASHINGTON

10 STARLA BRAHAM,

11 Plaintiff, NO. CV-10-385-EFS

12 vs.

13 AUTOMATED ACCOUNTS, INC., a
14 Washington Corporation, and
15 MICHELLE DOE and JOHN DOE,
16 husband and wife, and the marital
community comprised thereof,

Defendants.

REPLY STATEMENT OF FACTS IN
SUPPORT OF DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT

17 1. With respect to Plaintiff's Fact #1, Defendants' Fact #10 refers specifically
18 to the conversation in late 2008. Contrary to Plaintiff's Fact #1, Plaintiff's
19 "clarification" of Ms. Bull being "very short" referred to the November 2009
20 conversation, not the conversation in late 2008. *Deposition of Starla Braham*
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25 DEFENDANTS' REPLY STATEMENT OF FACTS IN
SUPPORT OF DEFENDANTS MOTION
FOR SUMMARY JUDGMENT, Page 1

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2. (“*Braham Dep.*”) 23:4-15, 36:4-22.¹

3. Plaintiff’s Fact #3 and #4 do not contradict Defendants’ Fact #5, as plaintiff claims.

4. Contrary to Plaintiff’s Fact #5, Ms. Bull does not claim to have told plaintiff of her unfamiliarity with what happens to claims sent to the legal department in the testimony plaintiff cites. Ms. Bull simply testifies to this fact generally. *Deposition of Michelle Bull* (“*Bull Dep.*”) 93:15-94:22.²

5. Contrary to Plaintiff’s Fact #5, plaintiff, not Ms. Bull, initiated talk of garnishment in their telephone conversation. *Bull Dep.* 100:20-24.

6. Contrary to Plaintiff’s Fact #6, the cited testimony does not support plaintiff’s alleged fact, and nowhere does it suggest Ms. Bull gave Ms. Braham “legal advice.”

7. Contrary to Plaintiff’s Fact #6, #19 and #20, Defendants Fact #15 does not conflict with Defendants’ Fact #39. Fact #15 describes Ms. Bull’s typical response to legal questions, and Fact #39 describes her attempt to answer a factual question by Ms.

¹ Excerpts attached to Declaration of Thomas M. Smith in Support of Defendants’ Motion for Summary Judgment (“*Smith Decl.*”) as Exhibit A, Declaration of Kirk D. Miller re Attached Excerpts of Depositions (“*Miller Decl.*”) as Exhibit A, and Supplemental Declaration of Thomas M. Smith in Support of Defendants’ Motion for Summary Judgment (“*Supp. Smith Decl.*”) as Exhibit A. Numbers denote page and line numbers.

² Excerpts attached to *Smith Decl.* as Exhibit B, *Miller Decl.* as Exhibit B, and *Supp. Smith Decl.* as Exhibit B.

1 Braham to the best of her ability. *Bull Dep. 14:18-22, 83:11-16.*

2 8. Plaintiff's Fact #7 does not contradict Defendants' Fact #15, as plaintiff
3 claims.

4 9. Contrary to Plaintiff's Fact #8 and #20, Ms. Bull only told Ms. Braham
5 that garnishment was part of the legal process in answer to Ms. Braham's question. Ms.
6 Braham's question initiated discussion of garnishment. *Bull Dep. 81:7-21, 100:20-24.*

7 10. Contrary to Plaintiff's Fact #9, Defendants' Fact #22 does not refer to the
8 November 2009 conversation between Ms. Braham and Ms. Bull.
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10 11. Contrary to Plaintiff's Fact #10, Defendants' Fact #23 does not refer to the
11 November 2009 conversation between Ms. Braham and Ms. Bull.
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13 12. Plaintiff's Fact #11 does not contradict Defendants' Fact #25.

14 13. Contrary to Plaintiff's Fact #14, the end result was that the payment was
15 not timely made.
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17 14. Contrary to Plaintiff's Fact #16, #17, #18, #22 and #24, Ms. Braham
18 contends her deposition testimony, along with the written record she made of the
19 November 2009 conversation, provide the accurate account of that conversation. *See*
20 *Bull Dep. 78:6-14, 81:7-21, 100:20-24.*

21 15. Contrary to Plaintiff's Fact #21, Defendants Fact #43 does not conflict
22 with Defendants' Fact #15 and #16. It simply describes Ms. Bull's understanding of
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1 legal action against a debtor, not her job duties. *Bull Dep. 81:17-82:9, 98:11-15.*

2 16. Contrary to Plaintiff's Fact #23, the deposition testimony does not suggest
3 Ms. Braham was referring to counsel's characterization of Ms. Bull's words. *Braham*
4 *Dep. 48:21-49:4.*

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6 17. Contrary to Plaintiff's Fact #24, Ms. Bull's written record of the
7 November 2009 conversation documents Ms. Braham's understanding of their
8 conversation. *Bull Dep. 81:12-82:12.* Contrary to Plaintiff's Fact #25 and #26, Mr.
9 Braham's testimony indicates it was not unusual for Ms. Braham to worry about
10 financial matters. *See generally Deposition of Larry Braham ("L. Braham Dep.")*
11 *37:12-51:2.*³

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13 RESPECTFULLY SUBMITTED this 13th day of January, 2012.

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15 Respectfully submitted,

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17 _____
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25 Counsel for Defendants

25 ³ Excerpts attached to Smith Decl. as Exhibit C and Miller Decl. as Exhibit C.

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of January, 2012, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Kirk D. Miller: kmiller@millerlawspokane.com

and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participant: n/a

/s/ Thomas M. Smith